

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NIPPON SHINYAKU CO., LTD.,)
)
Plaintiff,)
)
v.) C.A. No. 21-1015 (GBW)
)
SAREPTA THERAPEUTICS, INC.,)
)
Defendant.)
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SAREPTA THERAPEUTICS, INC. and THE)
UNIVERSITY OF WESTERN AUSTRALIA,)
)
Defendant/Counter-Plaintiffs,)
)
v.)
)
NIPPON SHINYAKU CO., LTD.)
and NS PHARMA, INC.)
)
Plaintiff/Counter-Defendants.)

SAREPTA THERAPEUTICS, INC.’S MOTION TO EXCLUDE DOCTRINE OF EQUIVALENTS OPINIONS AND TESTIMONY OF DR. NATHAN W. LUEDTKE

Pursuant to Federal Rule of Evidence 702, Sarepta Therapeutics, Inc. (“Sarepta”) respectfully moves for the Court to exclude the opinions and testimony of Dr. Nathan W. Luedtke relating to infringement of U.S. Patent No. 10,683,322 under the doctrine of equivalents, including his Opening Expert Report and his Reply Expert Report, served on September 8, 2023 and October 27, 2023, respectively, and to preclude Dr. Luedtke from testifying at trial. The grounds for this Motion are set forth in the Opening Brief in support thereof, filed concurrently.

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/s/ Megan E. Dellinger

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RULE 7.1.1 CERTIFICATION

Pursuant to D. Del. LR 7.1.1, the subject of this motion was raised with counsel for Nippon Shinyaku Co., Ltd. and NS Pharma, Inc. during a telephonic meet and confer that included Delaware counsel for all parties, and the parties were not able to reach agreement.

/s/ Megan E. Dellinger

Megan E. Dellinger (#5739)

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Plaintiff/Counter-Defendants.)

**[PROPOSED] ORDER GRANTING SAREPTA THERAPEUTICS, INC.'S
MOTION TO EXCLUDE DOCTRINE OF EQUIVALENTS
OPINIONS AND TESTIMONY FROM DR. NATHAN W. LUEDTKE**

Having considered Sarepta Therapeutics, Inc.'s ("Sarepta's") motion to exclude the opinions and testimony of Dr. Nathan W. Luedtke relating to infringement under the doctrine of equivalents and to preclude Dr. Luedtke from testifying at trial, and all related papers filed in connection therewith,

IT IS HEREBY ORDERED that Sarepta's Motion is **GRANTED**: the testimony and opinions of Dr. Nathan W. Luedtke relating to infringement of U.S. Patent No. 10,683,322 under the doctrine of equivalents (set forth in Dr. Luedtke's Opening and Reply Expert Reports, served on September 8, 2023 and October 27, 2023, respectively) is hereby excluded, and NS shall not offer Dr. Luedtke as a witness at trial.

IT IS SO ORDERED, this ____ day of _____, 2024.

The Honorable Gregory B. Williams
U.S. District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on December 11, 2023, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on December 11, 2023, upon the following in the manner indicated:

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/s/ *Megan E. Dellinger*

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